

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:19-cv-00512

Judy Denby,

Plaintiff,

v.

Commissioner,

Social Security Administration,

Defendant.

Before BARKER, *District Judge*

ORDER

On October 31, 2019, plaintiff Judy Denby filed this action under 42 U.S.C. § 405(g) for judicial review of defendant's denial of plaintiff's application for disability insurance benefits. Doc. 1. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. Doc. 2.

On February 18, 2020, Judge Mitchell ordered plaintiff to show cause why the lawsuit should not be dismissed for failure to timely serve defendant. Doc. 6. Plaintiff never responded. On March 26, 2020, Judge Mitchell issued a report and recommendation that the complaint be dismissed without prejudice for failure to comply with a court order and for failure to prosecute. Doc. 7. Additionally, Judge Mitchell recommended that counsel for plaintiff, Kami Nedbalek, be ordered to reimburse plaintiff the filing fee paid in this case. *Id.* No written objections were filed.

When no party objects to a magistrate judge's report and recommendation within 14 days of service, the court "need only satisfy itself that there is no clear error on the face of the record." *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (cleaned up). Here, there is no clear error.

Therefore, the magistrate judge's report and recommendation (Doc. 7) is **adopted**. This action is **dismissed without prejudice** for failure to comply with a court order and for failure to prosecute. Fed. R. Civ. P. 41(b). In addition, plaintiff's counsel, Kami Nedbalek, is **ordered** to reimburse plaintiff for the \$400.00 filing fee that plaintiff paid in this case. The payment to plaintiff shall be made no later than 30 days from the entry of this order. Counsel is **ordered** to file a notice of compliance with the court no later than seven days after payment is made. Failure to comply with this order may result in additional sanctions.

So ordered by the court on April 14, 2020.



J. CAMPBELL BARKER
United States District Judge